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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (CG)

WRIT PETITION (S) NO. 6799 /2006

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA,

PETITIONER		Mohan Lal Nayak (B.Ed.), aged about 41 years, son of Shri Chandrabhanu Nayak, Assistant Teacher, Government Primary School Charbhatha, Vikas Khand Gharghora, District Raigarh (CG)
		VERSUS
RESPONDENTS	1.	State of Chhattisgarh, through – Secretary, Department of Tribal Welfare, Dau Kalyan Singh Bhawan, Raipur (C.G.)
	2.	Assistant Commissioner, Raigarh (CG)

P.R. No. 6918/06
Presented by Shri R.K. Majumdar
dated 20/11/06

(18)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WPSS 6279 **सन् 200** 6

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11.12.2006 Shri A.N. Bhakta, counsel for the petitioner. Smt. Anju Ahuja G.A. for the respondents/State. The petitioner is working as Assistant Teacher in Government School. In the course of his service as Assistant Teacher, the petitioner has obtained B.Ed. certificate at his own expenses before 1.3.1999. According to learned counsel for the petitioner, petitioner is entitled to two advance increments in view of the decision of this Court in the case of **Yashwant Kumar Bharadwaj Vs. Municipal corporation, Durg and another** reported in **2006 (2) MPJR – CG 96**. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (supra), came to the conclusion that the teachers, who had obtained B.Ed./B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.1998 issued by the State Government of Madhya Pradesh. Further in the matter of **Smt. Manorama Shrivastava Vs. State of M.P. and others** reported in **2000 (1) MPLSR 136**, the Madhya Pradesh Administrative Tribunal, Gwalior Bench while	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

considering the circular dated 1.3.1999 wherein it is provided that the Assistant Teachers who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on the decision in the case of Rakesh Kumar Shrivastava Vs. State of Madhya Pradesh and others passed in Original Application No. 1632/1999 decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advanced increments.

It is pointed out by the learned counsel appearing for the petitioner that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed the Special Leave Petition No. 1999/2000 filed against the order of the tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers, who have obtained B.Ed./BTI certificates before 1.3.1999. It is further

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मामला क्रमांक WP(S) 6799 **सन्** 200 6

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Hon'ble Supreme Court. Learned counsel for the petitioner further submits that the facts and question of law involved in the present case of petitioner are squarely covered by the decision of this Court in the case of Yashwant Kumar Bharadwaj (supra) to which learned counsel appearing for the respondent/State fairly concedes and agrees with the averments made by learned counsel appearing for the petitioner. Accordingly, the writ petition is allowed in terms of the decision of this Court in the matter of Yashwant Kuamr Bharadwaj subject to verification of the fact as to whether the petitioner has acquired B.Ed. certificate at his own expenses as per the circular dated 24.12.1998 and 1.3.1999 and further whether he has been paid two advance increments or not. No order as to costs. **Sd/-** **Dhirendra Mishra** **Judge**	

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